Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
Delete, Delete, Delete	)	GN Docket No. 25-133

COMMENTS OF ACA INTERNATIONAL

April 11, 2025

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EXECUTIVE SUMMARY

ACA International ("ACA") submits these comments in response to the Federal Communications Commission's ("Commission") Public Notice in the above-captioned proceeding. ACA appreciates the Commission's review of unnecessary regulations as promoted by the policies articulated in the Trump Administration's Executive Orders. In these comments, ACA highlights several rules implementing the Telephone Consumer Protection Act ("TCPA") that meet the criteria set forth in the Delete Public Notice for elimination or modification. ACA identifies the following rules that should be rescinded or revised as applied to the debt collection industry (or more generally to informational-only calls or texts):

- Eliminate the "revoke all" rule adopted in the Revocation Order at paragraphs 29-32;
- Overturn the Commission's 2012 ruling eliminating the established business relationship exemption and apply it to debt collection calls or texts;
- Eliminate the Commission's ruling regarding when a call to a wireless number is considered without charge (*i.e.,* if it counts against a wireless plan's call or text limitations) and update exemptions accordingly; and
- Eliminate Commission TCPA rules that directly conflict with the Federal Debt Collection Practices Act ("FDCPA") and the Consumer Financial Protection Bureau ("CFPB") implementing rules, Reg. F., regarding debt collection practices.

Although some of these recommendations may require the promulgation of a new "rule," their effect is deregulatory. The modifications or expansion of rules described above all have the effect of exempting companies from otherwise burdensome regulatory obligations. These recommendations do not propose new regulatory requirements and do not result in new costs, but shield companies from requirements that are not cost-effective, avoid unreasonable compliance

costs and noncompliance risks, update rules to account for marketplace or technological changes, or conform TCPA rules with obligations contained in other statutes or rules, reducing complexity and costs of cross-compliance.

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COMMENTS OF ACA INTERNATIONAL

ACA International ("ACA") submits these comments in response to the Federal Communications Commission's ("Commission") Public Notice in the above-captioned proceeding.[1] ACA appreciates the Commission's review of unnecessary regulations as promoted by the policies articulated in the Trump Administration's Executive Orders.[2] In these comments, ACA highlights several rules implementing the Telephone Consumer Protection Act ("TCPA") that meet the criteria set forth in the Delete Public Notice for elimination or modification. ACA's members strive to comply with the Commission's TCPA rules but some of those rules impose unnecessary compliance costs, create undue litigation risk and conflict with the requirements in the Federal Debt Collection Practices Act while not materially advancing consumer protection or privacy. Some in fact, affirmatively harm consumers.

I. Introduction

ACA International represents approximately 1,500 members, including credit grantors, third party collection agencies, asset buyers, attorneys, and vendor affiliates, in an industry that employs more than 100,000 people worldwide. Most ACA member debt collection companies are small businesses. ACA members play a critical role in protecting both consumers and lenders. ACA members work with consumers to resolve their past debts, which in turn saves every American household more than $700 year after year. The Accounts Receivable Management

[1] In re: Delete, Delete, Delete, GN Docket No. 25-133, Public Notice, DA 25-219 (rel. March 12, 2025) ("Delete Public Notice").
[2] Delete Public Notice at n. 1 (citing *Executive Order 14192 of January 31, 2025, Unleashing Prosperity Through Deregulation*, 24 Fed. Reg. 9065 (Feb. 6, 2025); *see also Executive Order 14219 of February 19, 2025, Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative*, 36 Fed. Reg. 10583 (Feb. 25, 2025).

industry ("ARM industry") is instrumental in keeping America's credit-based economy functioning with access to credit at the lowest possible cost.

II. Summary of Rules to Rescind or Revise

ACA identifies the following rules that should be rescinded or revised as applied to the debt collection industry (or more generally to informational-only calls or texts):

- Eliminate the "revoke all" rule adopted in the Revocation Order at paragraphs 29-32;[3]
- Overturn the Commission's 2012 ruling eliminating the established business relationship exemption and apply it to debt collection calls or texts;
- Eliminate the Commission's ruling regarding when a call to a wireless number is considered without charge (*i.e.,* if it counts against a wireless plan's call or text limitations) and update exemptions accordingly; and
- Eliminate Commission TCPA rules that directly conflict with the Federal Debt Collection Practices Act ("FDCPA") and the Consumer Financial Protection Bureau ("CFPB") implementing rules, Reg. F., regarding debt collection practices.

Although some of these recommendations may require the promulgation of a new "rule," their effect is deregulatory. The modifications or expansion of rules described above all have the effect of exempting companies from otherwise burdensome regulatory obligations. These recommendations do not propose new regulatory requirements and do not result in new costs, but shield companies from requirements that are not cost-effective, avoid unreasonable compliance costs and noncompliance risks, update rules to account for marketplace or technological changes,

[3] *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991,* CG Docket No. 02-278, 39 FCC Rcd 1988 (2024). ("Revocation Order").

or conform TCPA rules with obligations contained in other statutes or rules, reducing complexity and costs of cross-compliance.

III. The Commission Should Eliminate or Modify the Revoke All Rule

In early 2024, the Commission substantially revised rules regarding the ability of consumers to revoke previously granted consent to receive prerecorded or artificial voice calls and voice calls and texts sent using an automated telephone dialing system or ATDS.[4] ACA's members strongly support the ability of consumers to revoke consent and it is a requirement under both the TCPA, as interpreted by the Commission, and under Reg. F, albeit by different means. One of the rules adopted in the Revocation Order should be overturned or modified because it falls squarely within the parameters of an unnecessarily burdensome rule without countervailing consumer benefit. This is the so-called revoke all rule whereby a request to revoke consent by whatever channel requires cessation of all contact by any other communication channel that requires prior consent and thus is related to every aspect of the consumer's relationship with the business. The revoke all rule is not separately codified but detailed in paragraphs 29-32 of the Revocation Order and is binding and enforceable.[5]

Per the revoke all rule, callers must stop all future contacts for which consent is required in response to a single revocation request. Thus, if a consumer replies to a text message requesting that the caller stop future texts, the caller must also stop future calls if consent is

[4] *Id.*
[5] On April 7, 2025, the Commission extended the compliance deadline for the revoke all rule by one year. *See Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Order, DA 25-312, (rel. April 7, 2024).

required.[6] Moreover, the revocation applies to any communication regardless of purpose. Thus a request to stop a telemarketing call stops all informational robocalls or robotexts, unless the informational communication falls within one of a discrete number of exemptions, none of which apply to debt collection communications.[7] Similarly a response to one type of informational call stops any other type of informational call.

The Commission recognized that the sweepingly broad scope of the revoke all rule might result in consumers inadvertently opting out of important informational calls.[8] But it did not meaningfully address that concern, leaving consumers exposed to inadvertently opting out of all manner of critical communications. The revoke all rule thus poses a very real risk of consumer harm.

The sole mechanism adopted by the Commission to limit the potential of consumers inadvertently opting out of important information calls is too limited to meaningfully address consumer harm and does not apply to debt collection calls in any event. The mechanism is the ability of callers to send a one-time response text seeking clarification of the scope of the consumer's revocation request.[9] The confirmation text mechanism is only available where the

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[6] Revocation Order, 39 FCC Rcd at 1998, para. 32 ("[W]hen consent is revoked in any reasonable manner, that revocation extends to both robocalls and robotexts regardless of the medium used to communicate the revocation request.")

[7] 47 C.F.R. § 64.1200(a)(9)(i-iv) (exempting package delivery, certain time-sensitive banking calls, inmate collect calls, and calls by health care providers).

[8] *See, e.g.,* Revocation Order, 39 FCC Rcd at 1998, para. 30 ("We agree with financial institutions' concerns that consumers may opt out of *exempted informational calls* or messages such as fraud alerts when attempting to stop unwanted telemarketing calls from their bank.") (emphasis added). The Revocation Order provides that callers can continue to make calls subject to these specific exemptions (identified in n. 6) unless the consumer specifically responds to an exempted communication with a revocation request. *Id.* at para. 30.

[9] The response text must be sent within 5 minutes of receipt of the revocation request and a failure by the consumer to in turn respond to the caller's text seeking clarification must be deemed by the caller as stopping all future communications requiring consent. Revocation Order, 39 FCC Rcd at 1997, para. 28; 47 C.F.R. § 64.1200(a)(12). Based on comments from ACA International noting that Reg. F rules bar sending texts during certain hours, precluding the ability to respond in five minutes, the Revocation Order

consumer has previously "consented to receiving multiple categories of informational messages from the sender."[10] This limitation excludes debt collection texts because debtors do not consent to receive multiple "categories" of informational messages as may be the case for banks or other financial institutions. Moreover, even if the response text mechanism could be interpreted as available to the collection industry, it provides no relief if the consumer revokes consent using a channel other than responding to a text, such as revoking consent by making a telephone call or writing a letter or sending an email.

The revoke all rule adversely affects consumers in various ways. For one, it is often the case that a consumer will have overdue payments on several accounts. For example, the consumer may have multiple credit cards that are overdue, or it may be overdue on a car loan and separately on a credit card. These debts likely will be due to different unrelated creditors. The Revocation Order would appear to require a revocation request in response to a robocall or robotext on one account to stop similar communications on all accounts. This puts consumers in jeopardy because they may be deprived of the opportunity to resolve outstanding debts, leaving them exposed to litigation or worsening of the consumer's credit rating.[11]

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states that, under such circumstances, a longer response time will be deemed reasonable. Revocation Order, n. 5.

[10] Revocation Order, 39 FCC Rcd at 1996, para. 26; 47 C.F.R. 64.1200(a)(12). This ruling was in response to a petition for declaratory ruling by Capital One Services, LLC regarding the scope of opt out requests. Capital One noted that its operates an automatic texting program that sent informational texts regarding a number of "categories" such fraud alerts, transaction history, balance information, payment reminders and credit notices. *Capital One Services, LLC Petition for Declaratory Ruling,* CG Docket Nos. 18-152, 02-278, at 4 (filed Nov 1, 2019).

[11] *See, e.g.,* 12 C.F.R. Part 16.Bureau of Consumer Financial Protection, Reg. F, Debt Collection Practices, Final Rule, at 5, available at Debt Collection December 2020 Final Rule (Regulation F) ("Collection efforts may directly recover some or all of the overdue amounts owed to debt owners and thereby may indirectly help to keep consumer credit available and more affordable to consumers. Collection activities also can lead to repayment plans or debt restructuring that may provide consumers with additional time to make payments or resolve their debts on more manageable terms.") ("Reg. F Final Rule").

The revoke all rule also directly conflicts with the requirements of the Fair Debt Collection Practices Act (FDCPA) and the CFPB's implementing rules at Reg. F, which only bar further communication with a consumer with respect to a specific debt. Under the FDCPA, a debt collector must cease communication once a "consumer notifies a debt collector in writing that the consumer refuses to pay *a* debt or that the consumer wishes the debt collector to cease further communication with the consumer, the debt collector shall not communicate further with the consumer *with respect to such debt*." 15 U.S.C. § 1692c. (emphasis added). Where the debt collector seeks to resolve more than one debt with a consumer, the TCPA revoke all rule would, as noted, appear to require cessation of communication with respect to all other debts, in direct contravention of the FDCPA.

Moreover, the Commission's revoke all rule coupled with the one-time confirmation text rule potentially deprives the consumer of critical information that the FDCPA and Reg. F authorize the debt collection industry to provide after a request to cease further communication. As noted, the Commission's rules limit companies responding to a texted revocation request to confirming the request and clarifying the scope of the revocation. The FDCPA and Reg. F. on the other hand, authorize a collection agency to provide information regarding remedies available to the creditor or debt collector or an intent to invoke such remedies.[12] If the collection agency seeks to provide that information through a mechanism that requires prior consent, the agency could be in violation of the Commission's rules when sending important, Reg. F authorized communications.

The Commission simply did not account for the varying consequences of its revoke all rule. Nor did it account for the industries' cost of compliance and weigh costs and burdens

[12] 12 C.F.R. § 1006.6(c)(2).

against purported consumer benefits.[13] The collection industry, as other industries are reporting to the Commission, must incur substantial costs to establish mechanisms to coordinate among different parts of the company and third-party vendors to ensure that a revocation request is timely honored throughout the enterprise and their vendors.[14] Even smaller businesses that may not have multiple divisions or vendors must nevertheless ensure internal processes are sufficient to ensure company-wide cessation of communications for any reasonable revocation request regardless of how or to whom communicated.

Despite obvious compliance costs, the Commission undertook no cost benefit analysis for the revoke all rule. The Delete Public Notice emphasizes the importance of assessing costs when issuing new rules.[15] As to small businesses, the Commission, in its regulatory flexibility analysis conceded that "[t]here is not sufficient information on the record to quantify the costs of compliance for small entities, or to determine whether it will be necessary for small entities to hire professionals to comply with the adopted rules."[16] The Commission thus had no way to assess whether the costs of the revoke all rule outweighed the benefits, particularly given that at least some consumers are likely to inadvertently opt out of important information, such as options to settle debts, undermining consumer benefits for the rule. Nor will the revoke all rule do anything to curb fraudulent or scam calls that cost consumers hundreds of millions a year. In light of the negligible benefits and substantial costs, the Commission is fully justified in eliminating the revoke all rule.

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[13] *See Delete Public Notice* at 2 (noting critical importance of cost considerations in the rulemaking process).
[14] *See, e.g.* Letter from Steven A. Augustino, Counsel for mPulse, to Marlene Dortch, Secretary, FCC (CG Docket No. 02-278) at 2 (filed March 21, 2025*)*.
[15] Delete Public Notice at 2-3.
[16] Revocation Order, App. B, Final Regulatory Flexibility Analysis, para. 15.

IV. The Commission Should Eliminate or Modify the Rule Barring Use of the Established Business Relationship (EBR) Exemption

In its *1992 TCPA Order*, the Commission established an exemption from TCPA liability for any "telephone call to any residential telephone line" where the caller and the "residential subscriber" had an EBR, including specifically debt collection calls.[17] The TCPA does not expressly authorize an EBR exemption.[18] The Commission nevertheless correctly concluded, based on legislative history and the record, that consumer privacy rights are not adversely affected by receiving a robocall from a company with which it has an existing business relationship. It further found that requiring prior consent where there is an EBR "could significantly impede communications between businesses and their customers."[19]

In 2012, the Commission "eliminate[d] the 'established business relationship' exemption as applied to telemarketing robocalls to residential lines."[20] The Commission's rules retain an EBR for faxed solicitations.[21] The Federal Trade Commission, and by implication the Commission's rules referencing the national do not call list, also includes an EBR exemption for live telemarketing calls to residential or *cell phone numbers* on the Do-Not-Call List.[22] Purely as a policy matter, it makes little sense to exempt telemarking calls where there is an EBR, but not informational calls that often convey critically important information to a business's customers or account holders. In all cases, the existence of established business relationship creates a

[17] *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CC Docket No. 92-90, Report and Order, 7 FCC Rcd. 8752, 8770–73, ¶¶ 34, 39 (1992) ("*1992 TCPA Order*").
[18] 2012 TCPA Order at para. 38.
[19] *Id.* at para. 34.
[20] *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Report and Order, 27 FCC Rcd. 1830, 1845–48, ¶¶ 35–43 (2012) ("*2012 TCPA Order*").
[21] 47 C.F.R. § 64.1200(a)(4). See also 47 USC 227(b)(1)(C) (establishing an EBR exemption for unsolicited fax advertisements).
[22] *See*, Q&A for Telemarketers & Sellers About DNC Provisions in TSR | Federal Trade Commission

reasonable expectation on the consumer's part that they may receive a communication.[23] This is particularly true for third party debt collection calls because the consumer is typically notified that their debt has been transferred for collection, creating the expectation of receiving communications from the third party.

The Commission should thus eliminate the 2012 rule barring use of the EBR for calls and texts and restore the exemption.[24] This action would be exceedingly deregulatory. The Commission's TCPA rules establish a dizzying array of restrictions that require callers to expend enormous resources to ensure compliance. Reinvigorating the EBR exemption from prior consent requirements would in one stroke substantially simplify compliance for businesses that simply want to communicate with their customers, without, as the Commission previously found, adversely affecting consumer privacy.

The Commission must not only restore the EBR, but must update its definition of an EBR to encompass more than just telemarketing calls to residential lines in order to provide meaningful relief from burdensome TCPA requirements. Despite eliminating the EBR for calls, the Commission's rules retain an EBR definition, which must be revised.[25] First, the definition

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[23] 1992 TCPA Order at para. 34 ("We conclude, based upon the comments received and the legislative history, that a solicitation to someone with whom a prior business relationship exists does not adversely affect subscriber privacy interests. Moreover, such a solicitation can be deemed to be invited or permitted by a subscriber in light of the business relationship.").

[24] As the Commission noted, it has ample authority under the TCPA to establish or not establish an EBR. 2012 TCPA Order, 27 FCC Rcd at 1846, para. 38.

[25] 47 C.F.R. 64.1200(f)(5):

> The term *established business relationship* for purposes of telephone solicitations means a prior or existing relationship formed by a voluntary two-way communication between a person or entity and a residential subscriber with or without an exchange of consideration, on the basis of the subscriber's purchase or transaction with the entity within the eighteen (18) months immediately preceding the date of the telephone call or on the basis of the subscriber's inquiry or application regarding products or services offered by the entity within the three months immediately preceding the date of the call, which relationship has not been previously terminated by either party.

must be expanded to expressly include debt collection calls or texts (or informational calls more generally). Second, to enable collection agencies to initiate communications with the consumer, the agencies must be able to rely on the pre-existing EBR between the consumer and the original creditor.[26] Thus, assuming an EBR exists between the consumer and the creditor at the time the debt is assigned to a collection agency, the EBR should follow the debt. Once that initial communication between the collection agency and the consumer occurs, the collection agency then forms its own EBR with the consumer. As the Commission found in its initial TCPA implementation order, a debt collection account creates an EBR.[27]

Finally, and perhaps most critically, the EBR must extend to calls and texts to wireless numbers, as it does in the context of the do not call registry. The limitation on the EBR to residential lines in the 1992 Order reflects the nature of telecommunications at the time, when

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> (i) The subscriber's seller-specific do-not-call request, as set forth in paragraph (d)(3) of this section, terminates an established business relationship for purposes of telemarketing and telephone solicitation even if the subscriber continues to do business with the seller.
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> (ii) The subscriber's established business relationship with a particular business entity does not extend to affiliated entities unless the subscriber would reasonably expect them to be included given the nature and type of goods or services offered by the affiliate and the identity of the affiliate.

[26] See Reg. F Final Rule at 6, describing the process:

> If a consumer's payment obligations remain unmet, a creditor may send the account to a third-party debt collector to recover on the debt in the third-party debt collector's name. A creditor typically stops communicating with a consumer once responsibility for an account has moved to a third-party debt collector. Active debt collection efforts typically begin with the debt collector attempting to locate the consumer, usually by identifying a valid telephone number or mailing address, so that the debt collector can establish contact with the consumer. Once a debt collector has obtained contact information for a consumer, the debt collector typically will seek to communicate with the consumer to obtain payment on some or all of the debt.

[27] 1992 TCPA Order at para. 36 ("In the NPRM, we observed that all debt collection circumstances involve a prior or existing business relationship."). The Commission extended the EBR not only to the creditor, but to a third party collecting the debt on behalf of the creditor. *Id.* at para. 39. This finding creates precedent for extending the EBR from the creditor to the collection agency to which the debt as been assigned, even if at the point the collection may no longer be on "behalf" of the creditor.

cell phones were in their infancy and virtually every household had a wireline phone. Today, cell phones are the residential lines for the vast majority of consumers. As the Commission recently noted, "as of December 2023, more than three-quarters of adults in this country had cut the cord, going fully wireless for their voice service."[28] This number will likely increase as telecommunications companies quickly retire traditional copper lines to homes, which is often replaced with a wireless connection.[29] As far back as 2003 the Commission relied on the increasing prevalence of wireless service to conclude that, for purposes of the do not call registry, the term residential subscribers included cell phone users.[30]

The Delete Public Notice recognizes that the "occurrence of marketplace and technological changes that render a rule unnecessary or inappropriate are among the most commonly-identified criteria in retrospective review of standards and policies."[31] The Commission should recognize that the TCPA's distinction between residential lines or residential subscribers and cell phone users is antiquated and no longer meaningful. The TCPA provides expansive power to the Commission to create exemptions for residential lines, but it authorizes exemptions from prior consent for calls to "cellular telephone service" only when calls are not charged to the called party. To the extent consistent with the TCPA, the Commission should

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[28] *Technology Transitions*, GN Docket No. 13-5, Order, DA 24-248 (rel. March 20, 2025) a t para. 9. The Commission cited additional data demonstrating the overwhelming replacement of "residential lines" with cell phones:

Communications Marketplace Report, GN Docket No. 24-119, 2024 Communications Marketplace Report, FCC 24-136, at para. 158 (2024) (*2024 Communications Marketplace Report*) (noting that "preliminary data from the Centers for Disease Control and Prevention (CDC), as of December 2023, approximately 76% of adults lived in a wireless-only household in late 2023, with adults in lower age-groups more likely to live in wireless-only households"); *see also* USTelecom Petition at 2 n.3 (citing Pew Research Center statistics showing that 98 percent of Americans now own a cellphone of some kind, and citing FCC statistics showing that over 80 percent of retail voice service connections are mobile). *Id.* at n. 46.

[29] AT&T is rapidly retiring copper telephone lines with a wireless device. *See* AT&T to Start Copper Retirement Process at 25 Percent of Wire Centers

[30] 2003 TCPA Order, 18 FCC Rcd 14014, 14037, para. 33.

[31] Delete Public Notice at 3.

exercise its discretionary authority to equalize the exemptions available to residential and wireless calls. One way to accomplish this goal, as explained below, is to revise the Commission's interpretation of calls not charged to the called party. It is difficult to conceive of a greater marketplace change than the pricing of cell phone calls (including texts), from dollars per minute when the TCPA was passed in 1991 to today's prevalent unlimited texting and calling plans.

V. The Commission Should Revise Its Wireless Exemptions and Eliminate Its Ruling Regarding the Scope of the "No Charge" Requirement

As an alternative to restoring and modifying the EBR, the Commission should also apply to debt collection calls the exemption for commercial calls to residential lines that do not include a solicitation as well as creating an exemption applicable to wireless calls. The 1992 TCPA Order exempted debt collection calls from consent requirements under both the EBR and the exemption for commercial calls that did not include a solicitation. The latter exemption continues to this day for debt collection and other informational calls subject to limits on the number of call attempts.[32] In addition to this exemption for residential lines, the Commission has adopted four specific exemptions for informational calls to wireless numbers, but none apply to collection agencies.[33] The Commission should expand and modify the exemptions to include debt collection calls or informational calls in general. But first, it must eliminate its anachronistic and unworkable rule regarding what constitutes a wireless call without a charge.

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[32] *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Report and Order, 38 FCC Rcd 5107 (2020), para. 15 (allowing 3 robocalls in a consecutive 30-day period).

[33] 47 C.F.R. § 64.1200(a)(9)(i-iv) (exempting package delivery notifications, certain calls by incarcerated people, calls by financial institutions as defined by the Bank Holding Company Act, and calls from health care providers.) Even if a collection agency may qualify under the Bank Holding Company Act, the exemption for such financial institutions bars use of the exemption for making debt collection calls. 47 C.F.R. 64.1200(a)(9)(iii)(D) ("Voice calls and text messages must not include any telemarketing, cross-marketing, solicitation, *debt collection*, or advertising content.") (emphasis added).

A. The Commission Should Eliminate Its Rule That Consumers Are Charged for Wireless Calls Even When No Separate Charges Are Assessed.

The TCPA authorizes the Commission to exempt from consent requirements calls to cell phones as long as the calls are not charged to the subscriber.[34] As noted above, this restriction may have made sense in 1992 when a cell phone call might cost dollars per minute. It makes little sense today when the vast majority of cell phone plans have unlimited calling and texting. Nevertheless, the Commission has imposed the no-charge requirement for each of its exemptions for calls to wireless numbers.[35]

The no-charge limitation creates obvious problems in attempting to confirm whether a called party is being charged for the call.[36] The Commission requires callers seeking an exemption to first demonstrate that calls will be free, a requirement that is hard for any company to meet but effectively precludes the use of exemptions by smaller companies without the resources to enter into deals with all of the wireless carriers to ensure consumers are not charged for calls from the company. The Commission compounded the problem by interpreting the no-

[34] 47 U.S.C. § 227(b)(2)(C).

[35] 47 CFR § 64.1200(a)(9) ("A person will not be liable for violating the prohibition in paragraph (a)(1) of this section for making any call exempted in this paragraph (a)(9), provided that the call is not charged to the called person or counted against the called person's plan limits on minutes or texts. As used in this paragraph (a)(9), the term "call" includes a text message, including a short message service (SMS) call.

[36] For example, in its order adopting the package delivery notification exemption, the Commission noted that delivery companies were capable of providing notifications that are not charged to consumers by, among other options, using third-party solutions that can be used for subscribers of the four nationwide wireless carriers. *See, In the Matter of Cargo Airline Association Petition for Declaratory Ruling; Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, 29 FCC Rcd 3432 para. 12. By contrast the Commission denied a petition by the Mortgage Bankers Association for a similar exemption in part because the association failed to provide any information on how its members would comply with the no charge requirement or that exempted calls would not count against any plan limits on the consumer's voice minutes or texts. *See, In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991; Mortgage Bankers Association Petition for Exemption*, 31 FCC Rcd 12484 (15) at para. 13 (2016).

charge requirement to be violated if the call or text is "counted against the called person's plan limits on minutes or texts."[37]

The Commission should eliminate this portion of the rule and reinterpret the no-charge rule in light of today's telecommunications marketplace. The Commission should find that the no-charge rule is only violated if the wireless subscriber incurs a separate, specific charge for the call. It should clarify that the no charge limitation is not violated for calls to consumers with unlimited plans. Moreover, given the overwhelming prevalence of unlimited plans, callers should not have to offer a plan to ensure a called party is not charged for a specific call or text in order to qualify for an exemption, which, as noted, has the practical effect of precluding most callers from utilizing the exemption.

B. The Commission Should Create an Exemption for Debt Collection Calls or All Informational Calls.

As noted, the 1992 TCPA Order found that debt collection calls qualified for the exemption for commercial calls that do not contain a solicitation and do not adversely affect privacy. The Commission should reaffirm that this exemption applies to debt collection calls and expand it to include calls to wireless numbers where the consumer is not charged, as interpreted above. Alternatively, or additionally, the Commission should create a specific exemption for debt collection calls modeled after the existing wireless call exemptions, including conditions to help maintain privacy, but modified slightly to ensure that they are practically available. Below is a proposed exemption modeled after the existing set of exemptions. While on its face this may appear to be adding a new rule, it's effect is deregulatory. Indeed, rules that create exemptions from otherwise applicable regulatory obligations should not be deemed to count against Executive Order 14192, which directs agencies to eliminate 10 rules for each new rule. It makes

[37] 64.1200(a)(9).

no sense to count as a new rule exemptions with a deregulatory effect where the executive order's intent is deregulatory.

Proposed additional exemption at 64.1200(a)(9):

(9) A person will not be liable for violating the prohibition in paragraph (a)(1)(iii) of this section for making any call exempted in this paragraph (a)(9) provided that the called party is not assessed a separate charge for the call or text. As used in this paragraph (a)(9) the term "call" includes a text message, including a short message service (SMS) call

(v) Calls made by a creditor or debt collector to collect a debt [or alternatively, "Any commercial call that does not include an unsolicited advertisement] provided that all of the following conditions are met:

(A) Voice calls and text messages must be sent only to the wireless telephone number provided by the consumer, by the creditor when assigning a debt, or as identified as associated with the debtor through other means;

(B) Unless otherwise provided by law voice calls and text messages must state the name and contact information of the creditor or debt collector once the called party is confirmed as the debtor;

(C) Voice calls and text messages must be for purposes of debt collection and not include any telemarketing, cross-marketing, solicitation, or advertising content.

(D) Unless otherwise provided by law, a debt collector may initiate no more than three messages per debt over a three-day period for an affected account.

(E) A debt collector must offer recipients within each message an easy means to opt out of future such messages; voice calls that could be answered by a live person must include an automated, interactive voice- and/or key press-activated opt-out mechanism that enables the call recipient to make an opt-out request prior to terminating the call; voice calls that could be answered by an answering machine or voice mail service must include a toll-free number that the consumer can call to opt out of future calls; text messages must inform recipients of the ability to opt out by replying "STOP," which will be the exclusive means by which consumers may opt out of such messages; and,

(F) A debt collector must honor opt-out requests within 10 business days.

VI. Elimination of Inconsistent Rules.

The Commission has repeatedly recognized that the debt collection industry is governed by a strict set of consumer protection rules, including calling limitations, either contained in statues such as the FDCPA or promulgated by financial regulators expert at balancing the privacy rights of consumers with the need to contact debtors to resolve outstanding debts and avoid adverse consequences of defaults, litigation or bankruptcy. For example, in the 1992 TCPA

Order, the Commission recognized that its TCPA rules requiring callers to identify themselves at the beginning of a prerecorded message conflicted with the FDCPA's requirement barring disclosure of the nature of a debt collection call at least until it is determined that the called party is the actual debtor.[38] More recently, the Commission recognized that its revocation rule allowing a confirmatory text if sent within 5 minutes after receipt of the revocation would conflict with the FDCPA's bar on any type of debt collection contacts during certain hours of the day. The Commission ruled that the FDCPA's preclusion of sending confirmatory text during certain times of the day superseded the 5-minute rule.[39]

There are numerous other examples where the debt collection industry is caught between conflicting masters when it comes to communications.

Means of Revocation. The Commission's rules prohibit companies from designating a means of revocation. The FDCPA and the Reg F, on the other hand, require that a cessation be made in writing, which can include an electronic writing.[40]

Post Revocation Contact. The Commission's rules provide only one form of communication with a consumer after receipt of a revocation request and only when the consumer revokes in reply to a text. In that case, the Commission's rules allow one confirmatory text with an option to seek to clarify the scope of the revocation. No other information apparently can be conveyed. The FDCPA and Reg F., on the other hand, authorizes additional information

[38] 1992 TCPA Order at para. 38.
[39] Revocation Order at n. 51.
[40] 25 U.S.C. § 1692(c) ("If a consumer notifies a debt collector in writing that the consumer refuses to pay a debt or that the consumer wishes the debt collector to cease further communication with the consumer, the debt collector shall not communicate further with the consumer with respect to such debt . . ."); 12 C.F.R. § 1006.6(c)(1).

related to remedies available to creditors or debt collectors or an intent to invoke such remedies.[41]

Call Attempts: The Commission's rules limit the number of informational prerecorded and artificial voice calls that can be made to a residential line to three in a 30-day period.[42] Reg F generally allows seven calls in a seven day period.[43]

The Commission should rule that debt collectors may follow the consumer contact rules contained in the FDCPA or Reg. F when they directly conflict with the Commission's TCPA rules.

CONCLUSION

The Delete, Delete, Delete docket provides an opportunity to revise ill-advised TCPA restrictions that impose substantial burdens on callers yet provide little, if any, benefit to consumers. These rules are particularly problematic for the collections industry. The industry is already tightly regulated by the CFPB and a host of TCPA requirements that would not be affected by the rule modifications recommended in these comments.

Respectfully Submitted, April 11, 2025

/s/

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[41] 12 C.F.R. § 1006.6(c)(2).
[42] *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Report and Order, 38 FCC Rcd 5107, para. 15 (2020). The Commission has established various numerical call limitations is its exemptions for wireless calls.
[43] 12 C.F.R. § 1006.14(b)(2).